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Pitcairn

Working paper by the Secretariat

Contents

		Paragraphs	Page
I.	General	1–2	2
II.	Constitutional and legal developments	3–20	2
III.	Economic conditions	21–30	3
IV.	Social and educational conditions	31–34	4
V.	Future status of the Territory	35–38	5
	A. Position of the administering Power	35–37	5
	B. Consideration by the General Assembly	38	5
Annex			
	White Paper on Partnership for Peace and Prosperity: Britain and the Overseas Territories, presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs in March 1999		6

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I. General

1. Pitcairn[1] is located midway between Australia and South America at 25° S and 130° W. It comprises four islands in the western Pacific Ocean (Pitcairn, the only one of which is inhabited, Henderson, Ducie and Oeno). Although there is evidence of previous habitation by Polynesian peoples, Pitcairn was uninhabited when castaways from the HMS *Bounty* (9 mutineers and 19 Polynesians) arrived there in 1790. Today Pitcairn is inhabited by their descendants. The population of Pitcairn has been declining steadily since 1937, when it was approximately 200. According to the administering Power, at 1 January 1999 the total population of the Territory was 66. All the population live in Adamstown, the only settlement in Pitcairn. The terrain in Pitcairn is of rugged volcanic formation with a rocky coastline with cliffs.

2. The official language is English and Pitcairn Islanders also have their own local dialect, a mixture of eighteenth century English and Tahitian.

II. Constitutional and legal developments

3. Pitcairn's constitutional arrangements were brought within the jurisdiction of the High Commissioner for the Western Pacific of the United Kingdom in 1898. The Pitcairn Order in Council 1952 established for the first time a separate office of the Governor of Pitcairn and, from 1952 until 1970, that office was held concurrently by the Governor of Fiji. In 1970 the Order in Council of 1952 was revoked and replaced by the Pitcairn Order 1970, which, together with the Pitcairn Royal Instructions 1970 are in effect the Constitution of Pitcairn. Those instruments established the office of Governor and regulate his powers and duties. The Governor is appointed by the Queen, acting on the advice of the United Kingdom Secretary of State for Foreign and Commonwealth Affairs, to whom he is accountable. In practice, the United Kingdom High Commissioner to New Zealand is appointed concurrently as Governor of Pitcairn and the responsibility for the administration of the island is accordingly vested in him and is discharged by him and officers subordinate to him.

4. Under the 1970 Order, the Governor has legislative authority for Pitcairn and is empowered to formulate laws on any subject. However, the Royal Instructions require him to obtain the prior approval of the Secretary of State for the enactment of certain classes of laws, including those that appear to the latter to be inconsistent with the United Kingdom's treaty obligations and laws that discriminate between different communities and religions.

5. Laws enacted by the Governor are styled ordinances. Formally, all ordinances are subject to disallowance by the Queen, on the advice of the Secretary of State. The Government of the United Kingdom retains the power to legislate directly for Pitcairn by an Act of Parliament or an order in council. It is under his legislative power that the Governor establishes courts for Pitcairn and regulates their jurisdiction and procedures (see paras. 12–19 below). The 1970 Order also vests in the Governor the power to appoint persons to offices in the public service and to remove or discipline them.

6. Pitcairn islanders manage their internal affairs through the Island Council. The Council was established by the Local Government Ordinance, which confers on it the duty to provide for the enforcement of the laws of Pitcairn and empowers it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the islanders.

7. The Council is required to meet at least once every month. It consists of 10 members: the Island Magistrate, who is elected every three years; the Chairman of the Internal Committee, who is elected annually; 4 other elected members, who are also elected annually; the Island Secretary, who is a public officer and serves on the Council ex officio; 1 nominated member, who is appointed annually by the Governor; and 2 advisory (non-voting) members, of whom 1 is appointed annually by the Governor and the other is appointed annually by the other members of the Council. The most recent Island Council elections were held on 24 December 1998.

8. The Island Magistrate is the President of the Island Council. He is also the Chief Executive Officer of Pitcairn and presides over the Island Court (see paras. 12–19 below).

9. The Island Council's decisions are implemented by the Internal Committee, whose formal functions are to carry out the orders of the Council and to perform such duties as the Council may direct. In practice, the principal function of the Committee is to organize and implement the work programme. The Committee comprises the Chairman and such other persons (not being members of the Council or public officers) as the Council, with the Governor's approval, may appoint.

10. To qualify for voting in elections to the various elective offices (Island Magistrate, Chairman of the Internal Committee and elected councillors) a person must either be

a native-born inhabitant of Pitcairn or have at least three years' residence on the island and must be at least 18 years of age. A candidate for election as Island Magistrate or Chairman of the Internal Committee must either be a native-born inhabitant of Pitcairn or have at least 21 years' residence on the island; candidates for the other elective offices must either be native-born inhabitants or have at least 5 years' residence.

11. The Island Secretary and other non-elected officials (e.g., the Postmaster, the Radio Officer and the Police Officer) are appointed by the Governor, invariably after consultation with the Council. A Commissioner based in Auckland carries out liaison between the Governor and the Council.

12. The court system of Pitcairn includes the Supreme Court, the Subordinate Court and the Island Court. The Supreme Court consists of such a judge or judges as the Governor, acting in accordance with instructions from the Secretary of State, may from time to time appoint. It has unlimited jurisdiction in all civil and criminal matters. Trials before the Supreme Court, whether in criminal or in civil cases, would normally be held by a judge sitting alone, but the Court has the power, in appropriate cases, to appoint between two and four assessors.

13. The Subordinate Court consists of a magistrate, who is any proper person whom the Governor appoints for that purpose. The Court ordinarily has the same jurisdiction and powers in criminal cases as a magistrate's court in England and the same jurisdiction and powers in civil cases as a county court in England, but the Governor can enlarge its jurisdiction in particular cases. There is a right to appeal in all cases to the Supreme Court.

14. The Island Court consists of the Island Magistrate and two councillors. Its jurisdiction is limited to offences that are committed within the islands or in territorial waters by residents of the Territory in contravention of the Island Code, and civil actions. The Island Court is rarely required to sit.

15. Pitcairn's Constitution, as embodied in the Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970, does not contain any provisions expressly guaranteeing human rights, nor has any formal machinery been established specifically for that purpose. Under the common law system that operates in Pitcairn, treaties that apply to Pitcairn (including human rights treaties) do not themselves have the force of internal law and cannot be directly invoked as a source of individual rights, although the courts are required, when possible, to construe domestic legislation in such a way as to avoid incompatibility with the United Kingdom's international legal obligations. The usual method of giving effect to treaty obligations (when these require some change in existing law or practice) is to enact specific new legislation, to amend existing legislation or to adapt existing administrative practices, as the case may require.[2]

16. For the most part, however, the legal protection of the human rights of Pitcairn Islanders does not depend on specific legislation such as the two orders in council mentioned above: it is assured through the enforcement by the local courts of the basic principles of the law in force on the island, which follow the same basic principles as the laws of England.

17. The violation of the rights of any person is justiciable by way of injunction and damages in the Supreme Court. The Supreme Court has inherent power and jurisdiction to award compensatory damages and to give directions that may be intended for the rehabilitation of that person. In addition, individuals subject to Pitcairn jurisdiction have direct rights of recourse to the United Nations Human Rights Committee, as a result of the accession by the Government of the United Kingdom on behalf of Pitcairn to the Optional Protocol to the International Covenant on Civil and Political Rights.

18. Without prejudice to the ability of the courts to grant relief and redress in any case where legal rights are infringed or threatened, the Governor has the ultimate responsibility for overseeing the implementation of human rights in Pitcairn. Any complaint of unlawful or oppressive action by any government official or authority can be raised with him, either directly or through one of his subordinate officers, and will be investigated thoroughly. If the complaint proves to be well founded, he has the power to take appropriate remedial measures.

19. The laws in force in Pitcairn, including any specifically relating to human rights, are published by the Government of the United Kingdom and are accessible to all on the island through the Island Secretary's office.

20. The Territory's reports to international bodies are prepared by the Government of the United Kingdom, drawing on information provided by the Governor and the Commissioner.

III. Economic conditions

21. Pitcairn's principal sources of income are stamp sales and revenue from interest and dividends. In 1997/98, income for the year was $NZ 491,838 and expenditures were $NZ 666,799, leaving a deficit of $NZ 174,961. Although there is no taxation in the Territory, each person between the

ages of 15 and 65 is required to perform public work each month in lieu of taxation.

22. The Territory's private sector economy is based on subsistence agriculture and fishing, and the sale of handicrafts, mainly to passing ships. The fertile soil of the valleys produces a wide variety of fruits and vegetables, including citrus, sugar cane, watermelons, bananas, yams and beans. Bartering is an important part of the economy. Pitcairn exports fruits, vegetables and handicrafts and imports fuel oil, machinery, building materials, cereals, milk, flour and other foodstuffs. To protect Pitcairn's developing agriculture industry, all honey and other bee products, used bee-keeping tools and equipment are banned from entry into Pitcairn.

23. The Government of New Zealand announced in February 1999 that it would extend pension portability to residents of certain Pacific islands, including Pitcairn, who had lived in New Zealand for at least 10 years. Those who had lived in New Zealand for 20 years or more would be able to retain their full pension even if they returned to their native islands. Those who had lived in New Zealand between 10 and 20 years would be entitled to at least half of the full pension, on a sliding scale. Pensions were also to be increased by an average of NZ$ 3,800 per year. Previously, pensions were only portable for Cook Islanders, Niueans and Tokelauans, and only at a rate of 25 per cent.[3]

24. The island of Oeno, 80 nautical miles north-west of Pitcairn, is the primary source for prized miro wood, which is the wood preferred for hand-carved Pitcairn handicrafts. The island of Henderson, difficult of access, is the largest of the group and the most productive of the three satellite islands. Semi-annual trips are conducted by the islanders when substantial quantities of miro wood are required.

25. A cooperative store, established in 1967, is open three times a week for a short period. Basic food commodities are obtainable when supplies are available. Flour, eggs, meat and butter are provided if ordered several months in advance as they must be imported from New Zealand.

26. Diesel-driven generators provide 240-volt electric power for approximately four hours each evening and for two hours each morning. A simple telephone system operates on the island. Overseas communications are maintained through surface mail and, since 1992, via satellite (telephone, fax, telex). Pitcairn recently released a trial set of phone/fax cards for the new satellite communications on the island. Pitcairn Radio Station is operational between the hours of 1800 and 0530 GMT.

27. Visitors to Pitcairn must first obtain from the Office of the Commissioner for Pitcairn Island in New Zealand a licence to land and reside there. Licences are valid for six months but may be renewed for further similar periods by the Governor. The Island Magistrate, subject to the direction of the Governor, is empowered to permit ashore crew members and passengers of any visiting vessel.

28. Access to Pitcairn is possible only by sea and usually by container vessels plying between New Zealand and the United Kingdom or the eastern seaboard of the United States of America or the Caribbean, via the Panama Canal. Such vessels are expected to call northbound approximately three times a year, but there is no regular, scheduled service. There are no hotels or guest houses, but accommodation for visitors may be arranged with one of the Territory's families on prior application to the Island Magistrate.

29. According to press reports, an engineering feasibility study on the construction of a landing strip on Pitcairn was carried out. The study determined that there would be no great technical difficulties in constructing an airstrip sufficient for light aircraft to make the 1,000 kilometre round trip from French Polynesia to Pitcairn.[4] A traveller to the island who posted a report of his visit on the Internet wrote that a town meeting had been held to discuss the project and support for it among residents was evident.

30. Press reports announced that the new communications equipment acquired by Pitcairn early in 1998 would reduce the cost of overseas telephone calls from US$ 10 per minute to US$ 3 per minute.

IV. Social and educational conditions

31. The population of the island is self-employed, but allowances and wages are paid to members of the community who participate in local government activities and who perform communal services. According to some sources, the labour force of Pitcairn in 1993 consisted of 14 able-bodied men. Information available in 1998 indicates that there are currently eight working men. This development is viewed with concern by the islanders since it takes four men to handle the big boats that go out to meet passenger ships.[5] According to an information sheet provided by the Office of the Commissioner for Pitcairn Island in New Zealand, the only jobs in the Territory are government posts normally reserved for permanent residents of Pitcairn. There are no banking facilities.

32. Education is free and compulsory for all children between 5 and 15 years of age. The school is operated and

financed by the Government. Instruction is in the English language and is based on the New Zealand standard curriculum. A trained teacher is recruited in New Zealand, normally for a two-year term. In 1996, it was reported that school enrolment was 13 students. Post-primary education is conducted at the school by correspondence courses arranged through the New Zealand Department of Education. Most Pitcairn Islanders are members of the Seventh Day Adventist Church.

33. The general health of the community is entrusted to a registered nurse working out of a government dispensary. Registered medical practitioners are employed from time to time for periods of between two and six months. The population also benefits from the services of visiting doctors travelling on ships that stop at the island. There is no doctor permanently stationed on Pitcairn.

34. A British police officer spent two months in Pitcairn in 1997 to organize law enforcement on the island. The police officer set up a traffic code for the Territory's roads and reviewed other procedures. The Territory is reported not to have had trained or experienced police for several years.

V. Future status of the Territory

A. Position of the administering Power

35. On 5 October 1998, the representative of the United Kingdom made a statement before the Fourth Committee.[6] The representative noted, *inter alia*, that her Government had launched a major review of its relationship with its remaining Dependent Territories. It had examined in depth how the partnership should be developed, strengthened and modernized. In the course of that review it had given the maximum possible weight to the views of the Dependent Territories themselves, and the Territories had unanimously indicated that they were happy to retain their link with the United Kingdom. The representative said that the review would be submitted to Parliament before the end of the year.

36. At the same time, the representative noted that her Government had already implemented some changes in the way it dealt with the Territories. First, a new Overseas Territories Department had been formed in the Foreign and Commonwealth Office, providing the Territories with a simple point of contact with the Government of the United Kingdom. Second, a Minister of State in the Foreign and Commonwealth Office had been appointed, with the title "Minister for the Overseas Territories". Furthermore, given the increasing energy, prosperity, and autonomy that characterized the Territories, the Government, in consultation with the people of the Territories themselves, had reached the view that the term "dependent" was wrong and they would now be referred to as "United Kingdom Overseas Territories".

37. The text of a white paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories", was presented by the Government to the United Kingdom Parliament in March 1999 and copies were forwarded to the United Nations Secretariat. The text is set out in the annex to the present document.

B. Consideration by the General Assembly

38. On 3 December 1998, the General Assembly adopted without a vote resolution 53/67 B, a consolidated resolution on 12 Non-Self-Governing Territories, section VIII of which is specifically devoted to Pitcairn.

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland, under Article 73 *e* of the Charter of the United Nations, on 20 April 1998 and from published sources and Pitcairn Web sites.

[2] New legislation for this purpose could take the form of a locally enacted ordinance or of an order in council made by the United Kingdom Government. Examples of orders in council made for this purpose are the Geneva Conventions Act (Colonial Territories) Order in Council 1959, which implemented the four Geneva Conventions in Pitcairn and a number of other British dependent Territories and the Criminal Justice Act 1988 (Torture) (Overseas Territories) Order 1988, which similarly implemented the Convention against Torture and others.

[3] *Reuters*, 16 February 1999.

[4] *Agence France Presse*, 10 April 1999.

[5] *Pacific Islands*, March 1998.

[6] See A/C.4/53/SR.3.

Annex

White Paper on Partnership for Peace and Prosperity: Britain and the Overseas Territories presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs in March 1999

A modern partnership

1.1 Britain's links with the Overseas Territories are long-standing and important. The relationship is rooted in a shared history: but it moves forward, too, in partnership. For Britain, the Overseas Territories are a significant element in its national and international identity, and an important responsibility. For the Overseas Territories, their links with Britain are significant too: but so is their individual character and diversity. This intertwined relationship is strong and constant. But it is subtle and changing too. A new and modern partnership between Britain and the Overseas Territories must reflect this relationship. It must be a partnership for progress and prosperity.

1.2 The Government is committed to modernization. Modernization is at the core of its vision, its direction, and its policies. We are applying this process of modernization systematically — to the economy, to the health service, to education, to crime prevention and to jobs. Modernization is at the heart of our approach to renewing the framework of Britain: to new representational arrangements in Scotland, Wales, Northern Ireland and London and to new administrative arrangements in England. We are recasting the constitutional settlement to bring power closer to people.

1.3 We are also reforming our relations with the rest of the world. We have ended Britain's isolation in Europe, with increasingly tangible results. We have re-established Britain as a leading international player, prepared to take tough decisions to deal with complex and pointed international difficulties — and where necessary, to back them up with action.

1.4 Britain's mutual relationship with the Overseas Territories must be seen in this context: within the overall framework of modernization and reform, and within Britain's new international role. As participants in the new global order and the new global economy, the Overseas Territories themselves must embrace reform and modernization. And in its relationships with the Overseas Territories, Britain must ensure that its structures and its practices are reformed and modernized. The relationship between Britain and the Overseas Territories needs to be effective and efficient, free and fair. It needs to be based on decency and democracy. Both Britain and the Overseas Territories have much to contribute to each other. They have done so in the past. They must continue to do so now and in the future.

The Territories

1.5 The British Overseas Territories comprise Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, Pitcairn, St. Helena and its dependencies Ascension and Tristan da Cunha, and the Turks and Caicos Islands; the Territories of the British Antarctic Territory, the British Indian Ocean Territory and South Georgia and the South Sandwich Islands, which have no indigenous population; and the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus.

1.6 The Overseas Territories retain their connection with the United Kingdom because it is the express wish of their peoples that they do so. They have a substantial measure of responsibility for the conduct of their own affairs. Local self-government is generally provided by an Executive Council and elected legislature. Governors or Commissioners are appointed by the Crown on the advice of the Foreign Secretary, and retain responsibility for external affairs, defence and, usually, internal security and the public service.

A new partnership

1.7 In August 1997 we began a review of Britain's relationships with what were then called the Dependent Territories. In addition to the arrival of a new Government following the election result of May 1997, a number of specific factors combined to prompt this fresh look. These included:

- Escalating volcanic activity on Montserrat;
- Increased awareness of the isolation and economic problems of some of the poorer Territories — notably St. Helena;
- The growing significance of the offshore financial centres in some Territories — in particular, Bermuda, the Cayman Islands and the British Virgin Islands.

1.8 The purpose of the review was to ensure that the relationship reflected the needs of the Territories and Britain alike, and to give the Territories confidence in our commitment to their future. The review covered policy towards all the remaining Territories, although particular

circumstances applied in the cases of Gibraltar and the Falkland Islands. The Sovereign Base Areas in Cyprus were excluded from the review because of their specific character as military bases and are therefore not included within the scope of this White Paper.

1.9 The basis of the review was that Britain's links to the Dependent Territories should be based on a partnership, with obligations and responsibilities for both sides. The Territories should administer themselves in accordance with their constitutions and in full respect for those of the United Kingdom's international obligations relevant to them. Within that framework the United Kingdom should uphold the right of the individual Territories to determine their own future and to enjoy a high quality.

1.10 The last major review of policy towards the Territories took place in 1987, but was limited to the Caribbean Dependent Territories and Bermuda. The review concluded that the United Kingdom should not seek to influence opinion in the Territories about independence, but should remain ready to respond positively when independence was the clearly and constitutionally expressed wish of the people. The reasonable needs of the Dependent Territories would continue to be a first charge on the United Kingdom's aid funds.

1.11 We sought views on three principal issues:

Citizenship

Whether people in the Dependent Territories who did not have it wanted British citizenship (carrying with it the right of abode in the United Kingdom) and if so on what basis — whether or not people in Britain and people in the Territories should have reciprocal rights, including the right of abode? The consultation found that there was interest in British citizenship — but only on the basis of non-reciprocity.

Constitutional status

What degree of interest was there in changing the Territories' constitutional relationship with the United Kingdom? Apart from some limited reference to Crown Dependency status similar to that of the Channel Islands, there was no widespread interest in a change in the current constitutional relationship.

Name

Was there significant support for changing the name of the countries concerned from "British Dependent Territories"? The consultation found there was support for a change of name to British Overseas Territories, or something similar.

1.12 A number of other exercises have contributed to the preparation of this White Paper.

National Audit Office Report on Contingent Liabilities in the Dependent Territories

1.13 On 30 May 1997 the National Audit Office published an updated Report on Contingent Liabilities in the Dependent Territories. The report identified a wide range of areas in which there had been progress since its last report in 1992, but called for continuing action to minimize future risks to the Exchequer.

1.14 As in 1992, the Public Accounts Committee (PAC) held hearings on the basis of the National Audit Office report. The Permanent Under Secretary of the Foreign and Commonwealth Office, Sir John Kerr, gave evidence. The Public Accounts Committee published its conclusions and recommendations in a report to Parliament on 21 May 1998.

1.15 The timing and substance of this review were a considerable help in the preparation of this White Paper. Its recommendations — particularly those relating to financial regulation and the control of public borrowing — have been addressed.

Foreign Affairs Select Committee inquiry into the Overseas Territories

1.16 Separately, the House of Commons Select Committee on Foreign Affairs embarked on its own review of the Territories. It took evidence from Baroness Symons on 25 November 1997. The Foreign and Commonwealth Office also submitted two memoranda to the Select Committee on Foreign Affairs. The Committee published its interim report on 3 February 1998, recommending that:

- The Government's review should cover the difficulties Dependent Territory passport holders experience when travelling and others related to education and training;
- Coordination in Whitehall should be strengthened;
- Good governance and the rule of law in the Territories should be promoted and their constitutions revised;
- The proposal to change the name to Overseas Territory was right.

The Government's response to the inquiry was published on 13 May 1998.

Select Committee on International Development inquiry into Montserrat

1.17 In the light of the continuing threat to Montserrat from volcanic activity, the International Development Committee of the House of Commons announced in August 1997 its intention to conduct an inquiry into the Government's conduct of the crisis. The Committee published its conclusions on 27 November 1997. The Government's response was forwarded to the Chairman of the Committee by the International Development Secretary on 2 February 1998. The Government's response was published on 29 October 1998.

A new partnership — the new way forward

1.18 We announced the interim findings of the review in February 1998. In a speech to the then Dependent Territories Association — now known as the United Kingdom Overseas Territories Association — the Foreign Secretary set out the principal elements of the new relationship between Britain and the Overseas Territories.

1.19 The new relationship would be a modern partnership tailored to the needs of both sides, and based on four fundamental principles:

- Self-determination;
- Mutual obligations and responsibilities;
- Freedom for the Territories to run their own affairs to the greatest degree possible;
- A firm commitment from the United Kingdom to help the Territories develop economically and to assist them in emergencies.

1.20 The key areas for change in the new relationship would be:

Coordination

The Foreign Secretary would work with the International Development Secretary on the details of new arrangements to ensure the best possible management of the United Kingdom's links with, and responsibilities for, its Territories. A Minister for the Overseas Territories would be appointed. There would be a new structured dialogue between the Overseas Territories and the Government.

Name

The Territories would in future be known as United Kingdom Overseas Territories — for short, Overseas Territories.

Citizenship

The sense of injustice felt in many Overseas Territories from not enjoying British citizenship was understood. We would look sympathetically at the possibility of extending citizenship.

Financial regulation

A check-list of regulatory measures for the Territories to bring their financial regulation up to internationally accepted standards would be drawn up. The Overseas Territories would be invited to present proposals for independent and properly resourced regulatory authorities.

Human rights

The record of many Overseas Territories was positive, but further work would be needed to ensure compatibility with the commitments which Britain has made on their behalf.

1.21 We said we would press ahead with action in priority areas, like better regulation of offshore activities. Separately, it was decided that action would also be taken to deal with harmful tax competition issues, which were attracting increased international attention. The Foreign Secretary said that the next stage would be to develop the details of these proposals in a White Paper.

Partnership for progress and prosperity

2.1 Britain's policy towards the Overseas Territories rests on the basis that it is the citizens of each Territory who determine whether they wish to stay linked to Britain or not. We have no intention of imposing independence against the will of the peoples concerned. But the established policy of successive British Governments has been to give every help and encouragement to those Territories which wished to proceed to independence, where it is an option. The issue was most recently reviewed in Bermuda in August 1995, when a referendum produced a 73 per cent vote in favour of retaining the link with Britain.

2.2 Britain is helping to develop the Overseas Territories, both economically and politically. This is a high priority for the Government, and is in line with Britain's commitments under the terms of the Charter of the United Nations.

2.3 To improve the links between the United Kingdom and the Territories, we have for the first time appointed a dedicated Minister for the Overseas Territories in the

Foreign and Commonwealth Office to oversee and develop the new partnership.

2.4 The partnership will be based on consultation and mutual understanding. A new political forum, the Overseas Territories Consultative Council, will be set up bringing together British Ministers and Chief Ministers and, where there is no ministerial system, elected members of Legislative Councils from the Overseas Territories to discuss matters for common concern. It will meet annually. Every other year, the Council will meet immediately before the Commonwealth Heads of Government Meeting, to allow our representatives to attend in full knowledge of the views of the governments of the Overseas Territories. We plan to hold the first meeting of the Council in September/October 1999.

Constitutional relations

2.5 We are committed to ensuring good government, sustainable political, economic and social development in Overseas Territories and to guaranteeing their security and defence. The commitment to the defence of the Overseas Territories was reiterated in the Strategic Defence Review published in July 1998. It has substance: a garrison in the Falklands, for example, and guard-ships in the Caribbean and South Atlantic. In return, we expect high standards of probity, governance and adherence to the international agreements to which the United Kingdom and the Overseas Territories are party; and we expect to minimize the extent to which the United Kingdom is exposed to contingent liabilities.

2.6 Consultation with the Territories showed a clear expression of their wish to retain the connection with Britain. We concluded that neither integration into the United Kingdom, nor Crown Dependency status, offer more appropriate alternatives to the present arrangements. But these arrangements need to be revisited, reviewed and where necessary revised.

2.7 The link between the United Kingdom and the Overseas Territories is enshrined in the constitution of each Territory. The Overseas Territories believe that their constitutions need to be kept up to date and where necessary modernized. Each Overseas Territory is unique and needs a constitutional framework to suit its own circumstances. Suggestions from Overseas Territory Governments for specific proposals for constitutional change will be considered carefully.

2.8 The governance of the Territories must have a firm base. Democracy, human rights and the rule of law are all as relevant in the Overseas Territories as elsewhere. The principles which should underlie modern constitutions are clear. There must be a balance of obligations and expectations, and both should be clearly and explicitly set out. Future action will focus on:

- Measures promoting more open, transparent and accountable government;
- Improvements to the composition of legislatures and their operation;
- Improving the effectiveness, efficiency, accountability and impartiality of the public service;
- The role of Overseas Territory Ministers and Executive Councils and their exercise of collective responsibility of government policy and decisions;
- Respect for the rule of law and the constitution;
- The promotion of representative and participative government;
- Freedom of speech and information;
- The provision of high standards of justice;
- Adoption of modern standards of respect for human rights.

2.9 Discussion of constitutional change is already under way. We are planning, for example, to consult the people of St. Helena and its Dependencies about how to develop the democratic and civil rights of people living on Ascension Island. Some Territories are already actively modernizing the machinery of government: in the Cayman Islands, for example, an extensive programme of public sector reform and rejuvenation is in place.

2.10 Important changes have already been introduced to make the new partnership work. The Foreign and Commonwealth Office and the Department for International Development have put in place new administrative arrangements to ensure better management of the United Kingdom's links with, and responsibilities for, the Overseas Territories.

2.11 After close consultation between the two Secretaries of State, it was decided that there should be parallel departments for the Overseas Territories in both the Foreign and Commonwealth Office and the Department for International Development. These have been set up. A ministerial joint liaison committee has also been established to coordinate the departments' activities and policies towards the aid-receiving Overseas Territories.

2.12 In the Foreign and Commonwealth Office, the new Overseas Territories Department is responsible for all issues relating to the Overseas Territories and reports to the Minister for the Overseas Territories. Special arrangements

apply for issues relating to Gibraltar and the Falkland Islands. Because Gibraltar is within the European Union (EU) as part of the United Kingdom membership under the Treaty of Rome — the only Overseas Territory with this status — it will continue to be handled principally by the Foreign and Commonwealth Office's European Departments, reporting to the Minister responsible for Europe.

2.13 Following a review of the managements of the aid programme in the Caribbean region, the Department for International Development decided early in 1998 to concentrate all support work for the Overseas Territories in London and the Parliamentary Under Secretary of State in the Department for International Development was given specific responsibility for overseeing the aid relationship with the Overseas Territories. At the same time, the Foreign and Commonwealth Office decided to transfer back to London responsibility for its good government funding and most of the other work hitherto done by the joint Foreign and Commonwealth Office/Department for International Development Dependent Territories Regional Secretariat in Bridgetown. The Secretariat consequently has been closed. To reflect changing organizational and structural needs the Overseas Territories Department is, however, keeping some advisory expertise in Barbados.

2.14 These new arrangements are already providing greater coherence in policy making, raising the profile of the United Kingdom Government's work on behalf of the Overseas Territories in Britain and helping to create a better dialogue with the Overseas Territories themselves.

2.15 There is great diversity within the Overseas Territories in terms of their size, their populations, their economic development and other factors. But there is a degree of coherence and similarity in the constitutional and institutional arrangements in place for their government and administration. We would like to see individual Territories review their own structures and arrangements in line with the idea of a new partnership. Local changes may be needed to make the partnership work fully, and to improve the dialogue between the Territories and the United Kingdom.

2.16 In response to representations from several Overseas Territory Governments, we have reviewed the arrangements in Brussels for ensuring that Overseas Territory interests are properly looked after within the EU, given the direct impact of many Brussels-based decisions and regulations on their economies. The EU Command in the Foreign and Commonwealth Office will continue to liaise closely with the Overseas Territories Department and Southern European Department as well as other government departments over issues which affect the Territories. A First Secretary in the office of the United Kingdom Permanent Representative to the EU in Brussels has been designated as a point of contact for the Overseas Territories covered by the Overseas Countries and Territories Decision. The United Kingdom Permanent Representation to the EU remains in close touch with the Government of Gibraltar through the latter's office in Brussels.

2.17 We were also asked by leaders of the Overseas Territories whether closer links might be possible between the Territories and the Commonwealth. Full membership of the Commonwealth is open only to independent countries, which limits the scope for Overseas Territory participation in Commonwealth affairs. However, members of the legislatures of the Overseas Territories have long enjoyed membership of the Commonwealth Parliamentary Association on an equal footing with full Commonwealth members. We will work to extend this collaboration to Overseas Territory participation in other Commonwealth organizations. Bermuda and other Overseas Territory Governments are regular participants, as members of the United Kingdom delegation, in Commonwealth Finance Ministers' meetings. The Cayman Islands will host the 1999 meeting. Overseas Territory representatives have also attended meetings of Commonwealth Law Ministers. In 1998, for the first time, Overseas Territory representatives were included as members of the British delegation to the Commonwealth Senior Officials' meeting and the Commonwealth Health Ministers' meeting in Barbados. In collaboration with the Commonwealth Secretariat, we are exploring the scope for extending the practice of representatives from the Overseas Territories attending Commonwealth meetings as members of the British delegation.

Citizenship

3.1 Access to Britain for people from the Overseas Territories is governed by a range of legal controls. The Government's review has examined closely whether this legal framework should now be modernized, as a key element of the new partnership.

3.2 The Commonwealth Immigrants Acts of 1962 and 1968 introduced controls which greatly restricted the ability of Commonwealth citizens and citizens of the United Kingdom and colonies from the Dependent Territories to settle in the United Kingdom.

3.3 These Acts were succeeded by the Immigration Act 1971, introducing the concept of the right of abode in the

United Kingdom and ending the right of free movement to the United Kingdom of Commonwealth citizens, including people from the Dependent Territories.

3.4 A 1977 consultative paper on British nationality proposed that the status of citizenship of the United Kingdom and colonies be divided into two new categories: British citizenship for citizens of the United Kingdom and colonies with the right of abode in the United Kingdom, and British Overseas citizenship for those who were subject to control under the Immigration Act 1971. Following representations received on behalf of the Overseas Territories, it was agreed that an additional category should be introduced in recognition of their special status.

3.5 The British Nationality Act 1981 accordingly replaced citizenship of the United Kingdom and colonies with three new forms of status:

- British citizenship, for those with the right of abode in the United Kingdom;
- British Dependent Territories citizenship, for those belonging to the Dependent Territories;
- British Overseas citizenship, for people not connected with either the United Kingdom itself or any of the remaining Dependent Territories.

The 1981 Act also made provision for people from Gibraltar to acquire British citizenship, and a separate Act gave British citizenship to Falkland Islanders in 1983.

New rights of citizenship

3.6 Many people in the Overseas Territories who have British Dependent Territories citizenship but who do not have the status of British citizens, and thus the right of abode in the United Kingdom, clearly feel a sense of grievance. For some people this is an irritant affecting the ease with which they can travel.

For others the issue goes deeper. Some Territories have only ever known British sovereignty. They feel British, and their populations have never been anything other than British. But legislation enacted in the 1960s and 1970s imposed controls on their entry to the United Kingdom either for settlement or for visits.

There is a strong desire for these controls to be relaxed and rights restored. We sympathize with those in the Overseas Territories who feel this sense of grievance, and intend to address it.

3.7 We have examined the options carefully. We have decided that British citizenship — and so the right of abode — should be offered to those British Dependent Territories citizens who do not already enjoy it and who want to take it up (but see paras. 3.12 and 3.13). Any who do not want to take it up will be able to say so and remain British Dependent Territories citizens. This is a significant step forward for people in the Overseas Territories. It will offer them the opportunity many have sought for many years. The Government considers this is the right thing to do as a point of principle. We will introduce, when parliamentary time allows, the legislation required to put this principle into practice.

3.8 In making this decision the Government has taken into account representations made by people in many Territories — not least those made on behalf of the people of St. Helena.

What new citizenship rights will mean

3.9 We have considered carefully the argument that a grant of British citizenship to people with British Dependent Territories citizenship would lead to a new wave of primary immigration. We expect few people from the Overseas Territories would wish to emigrate permanently to Britain. Roughly 70 per cent of the total population of the Overseas Territories live in Territories with a higher income per head than Britain, and residents of the larger and richer Territories such as Bermuda, the British Virgin Islands and the Cayman Islands might well be more likely to want to stay where they are. But some, for example, may like to come to Britain for training and work experience, and will be welcome. We would not expect large numbers of those currently resident in the less prosperous, smaller Territories to take up the option of coming to live and work permanently in the United Kingdom. Effective and sustainable development within the Overseas Territories will continue to provide opportunity and choice and reduce the need for people to seek these elsewhere.

3.10 Another point made by some Governments of the Overseas Territories is that they would not welcome a grant of British citizenship if this came with conditions attached to it, such as an obligation to introduce British tax rates and regimes. There are no such conditions attached to the Government's proposal on citizenship. Nor will this offer of British citizenship imply in any way a threat to the right of the people of these Territories to determine their own constitutional relationship with the United Kingdom. The new grant of British citizenship will not be a barrier, therefore, to those Overseas Territories choosing to become independent of Britain. Nor will British Dependent Territories citizenship status be abolished.

3.11 Many people from the Overseas Territories have made it clear that they want British citizenship so that they can travel more freely. It is right that they should be able to do so. They should be able to enter Britain through our ports through the same channels as British citizens and other European Union (EU) nationals — who at present include inhabitants of French and Dutch Territories, but not those of our own except Gibraltar and the Falkland Islands.

3.12 We do not intend to offer British citizenship to British Overseas Citizens. Many have access to or have acquired dual nationality. Many have access to the United Kingdom through our voucher scheme. Moreover we have a particular responsibility to people in areas for which we have sovereign responsibility.

3.13 Nor does the Government propose to extend the offer of citizenship to British Dependent Territories citizens who owe their status to their association with the Sovereign Base Areas in Cyprus or with the British Indian Ocean Territory. Both are special cases. British usage of these Territories is defence-related.

Reciprocity

3.14 It is our intention that the offer of British citizenship should be on a non-reciprocal basis as far as the right of abode is concerned. Our consultations with the Territories showed that there is a fear among these mostly small communities that reciprocity would give unrestricted access not only to British but also to other EU citizens. This would, potentially, make possible an inflow of people on a scale that could dramatically alter the social cohesion and character of the communities. The Government regards this concern as legitimate. Precedents have already been set for British citizenship being offered without reciprocity in the case of the Falklands and Gibraltar. Within the EU, neither France nor the Netherlands nor Portugal require reciprocity in exchange for full metropolitan citizenship.

3.15 A non-reciprocal offer of British citizenship would be wholly consistent with the importance the Government attaches to the emergence of a vibrant multiracial and multicultural Britain.

3.16 Under European Community law, giving British Dependent Territories citizens British citizenship will mean giving them certain European Community rights of free movement and residence in EU and European Economic Area member States.

3.17 Once the appropriate legislation has been passed, all those who were British Dependent Territories citizens by connection with any qualifying Overseas Territory (see para. 3.13 above) at the time the legislation entered into force would automatically become British citizens.

We shall make provisions for children born to qualifying parents to become British citizens at birth or adoption. But we shall also make it possible for those who do not want to become British citizens to give up that status and remain British Dependent Territories citizens.

3.18 As now, newcomers to the Overseas Territories will be subject in the first instance to regulations on rights of residence in the Overseas Territory in which they wish to live. These regulations differ from Territory to Territory and often prescribe lengthy periods of legal residence and other qualifications for the grant of "belonger status". We shall put in place arrangements which will make it possible for any such people who acquire British Dependent Territories citizenship through legal residence in an Overseas Territory to be granted British citizenship.

Encouraging good government — human rights

4.1 We regard the establishment and maintenance of high standards of observance of human rights as an important aspect of our partnership with the Overseas Territories. Our objective is that those Territories which choose to remain British should abide by the same basic standards of human rights, openness and good government that British people expect of their Government. This means that Overseas Territory legislation should comply with the same international obligations to which Britain is subject, such as the European Convention on Human Rights and the United Nations International Covenant on Civil and Political Rights. The Overseas Territories have a well-deserved reputation for their respect for and observance of human rights, but changes are still necessary in some Territories to ensure consistency.

4.2 There are three human rights issues on which we have indicated we would like to see reforms in some of the Overseas Territories:

- Judicial corporal punishment, which remains on the statute books of two Overseas Territories;
- Legislation in some of the Overseas Territories which outlaws homosexual acts between consenting adults in private;
- Capital punishment, which is still available to the courts in Bermuda.

4.3 While its Territories retain this legislation the Government risks being in breach of important and fundamental international agreements, including the European Convention on Human Rights and the International Covenant on Civil and Political Rights. In addition, this exposes the United Kingdom to an avoidable contingent liability of costs and possibly damages. In keeping with our commitment to a modern relationship with the Overseas Territories based on partnership and responsible self-government, our preference is that the Overseas Territories should enact the necessary reforms themselves. But in the absence of local action, legislation could be imposed on the Caribbean Territories by orders in council.

Judicial corporal punishment

4.4 Judicial corporal punishment remains on the statute books of the British Virgin Islands and Bermuda. It was abolished in Montserrat in 1991 and in Anguilla and the Turks and Caicos Islands in 1998. In the Cayman Islands abolition was begun in 1995 and completed in 1998. There is a belief in those Territories which retain it that it provides a deterrent, particularly against hooliganism and juvenile crime. But in recent years, it has only been handed down as a sentence in the British Virgin Islands, the last time in 1996.

Homosexuality

4.5 We believe that all of the Overseas Territories should enact legislation similar to the United Kingdom Sexual Offences Act 1967, which legalized homosexual acts between consenting adults in private. None of the Caribbean Overseas Territories has brought its legislation into line with the Act, though prosecutions in recent years have been rare. In some of the Caribbean communities there is particularly strong opposition to homosexuality, based upon firmly held religious beliefs.

Capital punishment

4.6 In 1991 the United Kingdom abolished capital punishment for murder in the Caribbean Dependent Territories by order in council. Subsequently the United Kingdom has abolished capital punishment for treason and piracy in domestic legislation.

The only Overseas Territory which has retained the death penalty for murder is Bermuda, though the last time it was carried out there was in 1977 (twice). Since then, of a small number of death sentences handed down for premeditated murder, only one was not reduced on appeal to a lesser conviction not carrying the death penalty; and that case was subsequently commuted to life imprisonment.

4.7 We have raised our concerns with the Government of Bermuda about the continuing existence of capital punishment for murder. We hope that the Bermuda legislature will take early steps towards removing this punishment from the statute book. Bermuda's degree of constitutional autonomy prevents us from imposing the abolition of the death penalty there by order in council. But if local action is not taken, we will consider whether to impose abolition by means of an Act of Parliament.

4.8 We also expect all Overseas Territories to remove capital punishment for treason and piracy from their statute books.

Encouraging good government — finance

5.1 We see several reforms as essential to improving standards in this key area of government activity:

- Financial services;
- Auditing;
- Borrowing;
- Tax issues.

Financial services — development and regulation

5.2 The international financial services industry has grown dramatically in recent decades. A significant number of the Overseas Territories, especially those in the Caribbean but also Bermuda and Gibraltar, have developed successful offshore financial sectors, and so diversified their economies. In some, the earnings from this sector now contribute significantly to government revenue and to the gross domestic product.

5.3 The success of the Overseas Territories has been built upon by their reputation for sound administration, effective legal systems, political stability and public order, and their association with the United Kingdom. These provide reassurance to would-be investors and business partners. It is essential for the future of the sector that this reputation for honest administration and probity be preserved and enhanced.

5.4 The development of sizeable financial sectors brings risks of abuse. There have already been a number of problems. Where these have surfaced, they have been dealt with, and steps taken to strengthen the systems to prevent any recurrence. The process of building suitable defences against abuse is dynamic. As markets develop and techniques for laundering money, fraud, tax evasion and

regulatory abuse evolve, so financial regulatory systems must improve, be updated and be responsive to ever tighter international standards.

5.5 The Caribbean Overseas Territories in particular are a potential target for money launderers because of their offshore financial business, their proximity to major drug producing and consuming countries and, in some cases, their inadequate standard of regulation and strict confidentiality rules. They are also at risk from attempted fraud. In some cases, the small size of their public sectors makes it difficult to provide adequate regulation, particularly if the offshore sector has grown more rapidly than regulatory capacity. International financial crime and regulatory abuse arising in the Overseas Territories is mainly targeted at other countries.

5.6 In the wake of problems in the banking sector in Montserrat in 1989, and the BCCI banking scandal in 1991, the regulation of financial sectors has been tightened. Regulators with relevant overseas experience have been recruited, and more comprehensive financial legislation introduced. Revised banking guidelines have been issued which restrict the granting of offshore licences to branches or subsidiaries of international banks which are supervised in their home country. Provisions have been made to allow improved cooperation with overseas regulators and law enforcement agencies; and modern all crimes money laundering legislation has been enacted or will be adopted shortly in the Caribbean Overseas Territories, Bermuda and Gibraltar. The focus should now be on using these powers effectively.

5.7 Nonetheless, as the May 1997 National Audit Office Report on Contingent Liabilities in the Dependent Territories noted, overall progress in the Caribbean Overseas Territories in introducing regulatory legislation has been slow. Many Overseas Territories do not yet fully meet internationally acceptable standards.

Failure to tighten regulation could affect the stability of and confidence in financial markets and expose the United Kingdom to international criticism and to potential contingent liabilities. Furthermore, it could undermine our ability to combat financial fraud, money laundering, terrorist funding and tax evasion, and undermine the effectiveness of financial sanctions. It could also undermine the United Kingdom's ability to press for higher standards of global financial regulation, and to encourage greater regulatory cooperation.

5.8 Any participants in the international financial services industry must meet the corresponding international standards of good practice. The globalization of international finance means that the whole system has to be protected. It is in all our interests to ensure that the Overseas Territories are not the subjects of complaints and that they have proper regulatory regimes in place. In the long run, it is the quality jurisdictions that will prosper best. There must be no weak links which can help to undermine the international financial system.

5.9 Gibraltar is required to implement all European Community Directives related to financial regulation. Gibraltar has made a commitment not just to implement the necessary measures to the minimum standard required within the European Union (EU), but also to match United Kingdom standards of financial regulation. Gibraltar's standards of financial regulation are assessed formally and rigorously by the United Kingdom Government on a regular basis. This should ensure that Gibraltar will match the regulatory requirements set out in this White Paper.

5.10 Action is necessary in all Overseas Territories with financial centres or ambitions to develop such a sector, to improve standards. Overseas Territory Governments must speed up the work they have in hand so that all measures are in place by the end of 1999. We shall be asking Governors to provide regular progress reports. We shall conduct an in-depth independent review by regulatory experts in 1999 to assess progress made in implementing these measures and make recommendations on how to deal with issues outstanding and to what timetable. This is essential to ensure both adequate regulation and that the same conditions apply in all Overseas Territories.

5.11 The key components of the regulatory package we wish to see in place by the end of 1999 are:

- Legislation for the effective regulation of the offshore sector which fully meets accepted international standards; comprehensive measures to combat money laundering, which extend to all financial institutions, and the introduction of legislation to improve regulation of company formation agents and managers;
- Powers to ensure that, whatever the secrecy laws, regulators and law enforcement in those Overseas Territories with financial sectors can cooperate properly with their overseas counterparts, including on investigation and enforcement matters;
- Licensing and regulatory regimes for all financial activity that creates conditions for fair competition between the Overseas Territories;
- The establishment of independent regulatory authorities meeting accepted international standards.

5.12 In most Overseas Territories the offshore finance sector is the responsibility of the Governor. We have considered whether there would be an advantage in having uniformity of powers. We have decided that this is not essential. Where authority has been devolved, it is the responsibility of those concerned to ensure that the jurisdiction achieves the highest standards. We will monitor all Overseas Territories concerned and indicate what standards are expected. If, when the implementation of the checklist is monitored, some territories are found to have been inactive and to be behind, we will consider seriously whether to use our powers to ensure that the required standards are met.

Auditing and financial accountability

5.13 The existence of proper financial procedures and controls, including the availability of timely audited accounts of public sector activities, is necessary for the proper administration of public expenditure. The Overseas Territories' past record with both the standard and timeliness of draft and audited accounts has been mixed.

5.14 We will give high priority to ensuring that Overseas Territories have in place sound procedures for administering government finances, with adequate internal audits. Overseas Territories will be required to produce timely, independently audited annual accounts for all public sector activities to United Kingdom standards, with full identification of contingent financial liabilities. The accounts should be subject to scrutiny by the Territory's legislature, and where appropriate by a fully functioning Public Accounts Committee. In some Overseas Territories, accounting and auditing legislation will need to be updated to underpin this process. We stand ready to give expert advice and assistance to help the Overseas Territories bring their audit and statistical systems up to the required standard.

Financial control — borrowing

5.15 Borrowing is a legitimate tool of government policy but must be used prudently. We therefore intend to agree to strengthened procedures and guidelines with Overseas Territory Governments.

This will ensure borrowing is properly used, within sensible prudent limits, and will assist Overseas Territory Governments to obtain the greatest economic benefit from their borrowing and to borrow on the best terms. Many of the guidelines will be based on existing practice and will cover all means of raising finance.

5.16 In general, borrowing should only be considered for discrete capital investment projects. It should be restricted to investments which have a calculable and reasonably certain financial and economic rate of return. All investment projects, however financed, should be appraised by suitably qualified professionals against technical, economic, financial, social and (where appropriate) environmental criteria. Concessional sources of funding should be sought first and, in principle, projects with social objectives and low financial returns should be financed from recurrent budget surpluses.

5.17 In considering particular projects due attention should be given to the impact of new commitments on overall levels of borrowing, and to the Territory's debt management record. While a rigid framework should not be applied, each Territory wishing to borrow will be required to agree with us on an overall level of borrowing, and in the case of some Territories approval will be required for individual loans. Borrowing in excess of agreed limits would only be approved in exceptional circumstances, or if the economic situation had changed substantially since the limit was set.

5.18 Overseas Territory Governments take on contingent liabilities themselves when they guarantee loans to other organizations, and these should be given only when the risk of default has been properly evaluated. Our approval for such guarantees will be required case-by-case.

5.19 We will provide neither explicit nor implicit guarantees for commercial borrowing by Overseas Territory Governments. When negotiating borrowing arrangements Overseas Territory Governments should not say or do anything which is likely to be interpreted as suggesting anything to the contrary.

Tax issues

5.20 There is growing international concern about the economic side-effects of harmful tax competition between States. Work on this has recently been undertaken by the Organisation for Economic Cooperation and Development (OECD) and the EU, and endorsed strongly by the G7. Given the international mobility of capital, both organizations concluded it was hard to tackle this issue on a purely regional basis. A global approach was needed, as for tax evasion, fraud and money laundering.

5.21 The Government supports the initiatives taken by the EU, OECD and G7. Promoting economic stability and fairness, as well as improving the integrity and security of financial markets, are high priorities. Irrespective of size, all jurisdictions are potential beneficiaries from a healthier world economy. They have a responsibility to ensure that their regulatory regimes are effective, transparent and offer

adequate accessibility for the legitimate investigation of criminal activity, including tax fraud and evasion.

5.22 These initiatives have implications for some Overseas Territories. It is important, therefore, that Overseas Territory Governments cooperate with them. We will continue to consult closely with Overseas Territory Governments over the initiatives, and ensure that international discussions of harmful tax competition take account of their interests. We stand ready to offer advice and expertise to the Overseas Territories in connection with these initiatives.

5.23 In the EU Code of Conduct for business taxation agreed on 1 December 1997, member States committed themselves not to introduce harmful tax measures and to re-examine laws and practices with a view to eliminating existing harmful measures. Member States with associated or dependent Territories are committed, within the framework of the constitutional arrangements, to ensuring the principles of the Code are adopted in those Territories.

5.24 The EU is also considering a draft directive which would require member States to operate a withholding tax on cross-border income from savings by individuals, or to provide information on savings income to other member States. It is proposed that member States should commit themselves within the framework of their constitutional arrangements to ensure equivalent measures are applied in dependent or associated territories.

5.25 Following the publication of a report by OECD on 28 April 1998 on harmful tax competition, a Forum on Harmful Tax Practices has been established to consider how the OECD report's recommendations can be implemented. The Forum invited a number of jurisdictions, including some Overseas Territories, to provide details of their tax regimes. The Forum, through dialogue with the jurisdictions concerned, will assess whether their tax regimes match the OECD criteria for defining a tax haven. Those jurisdictions which meet the OECD criteria will be included on an OECD list of tax havens. The list will guide OECD members' efforts to persuade tax haven jurisdictions to modify their fiscal regimes and increase their international cooperation on fiscal matters.

5.26 In a recent communiqué, the G7 urged OECD to give particular attention to the development of a comprehensive programme to improve the availability of information to tax authorities to curb international tax evasion and avoidance through tax havens and preferential regimes. It also encouraged action to ensure that suspicious transaction reporting requirements apply to tax offences and for money laundering authorities to pass information to tax authorities in support of the investigation of tax-related crimes in ways which would allow it to be shared internationally. The G7 also committed itself to further these objectives in all Territories for which it has international responsibilities.

5.27 Work in this area is at an early stage. There are still issues, including some of definition, to be resolved. Overseas Territory Governments need, and are entitled to, clear guidance as to which aspects of their offshore financial industries are likely to continue to be able to flourish, and which may be subject to change. We will work closely with them as the initiatives unfold. These initiatives will require greater international cooperation through, for example, the exchange of information on tax matters and improved transparency. A study of the possible economic impact of the initiatives on some of the Overseas Territories will be undertaken to help us determine the best way forward. Our interest is to ensure that offshore financial industries in the Overseas Territories flourish, and do so on the basis of compliance with standards and practices consistent with internationally agreed norms.

Encouraging good government — combating drug trafficking and drugs-related trade

6.1 Drug trafficking and drugs-related crime are a serious threat to stability in the Caribbean: our Overseas Territories in the region are targeted by drug traffickers as potential trans-shipment points. This type of crime knows no boundaries. We are pleased therefore to support the Territories in the Caribbean as they collaborate in regional efforts to counter the drugs trade. Amongst our other Overseas Territories the only significant problem had been drug trafficking using fast boats based in Gibraltar: but local legislation in 1995 and 1996, including banning such boats, has solved the problem.

6.2 Drug trafficking affects the Caribbean region as a whole, not just our Overseas Territories. The geography of the region makes it particularly vulnerable to trafficking and the associated problems of crime and violence, corruption and economic distortions. The United Nations International Drug Control Programme (UNDCP) estimates that some 400 tonnes of cocaine transit through the Caribbean each year. Most of the cocaine transiting our Overseas Territories is believed to be destined for the United States.

6.3 Each of our Caribbean Overseas Territories has taken steps to tackle drugs issues including both domestic narcotics consumption and the threat from drug trafficking and money laundering. They have also made arrangements

to ensure that their anti-drugs strategies are coordinated properly.

Typical is the Turks and Caicos Islands where a National Drugs Coordinator has been appointed and a National Drugs Committee coordinates the efforts of all the agencies involved in tackling trafficking and money laundering. In the Cayman Islands a National Drugs Council contributes to the working up of policies, while a Joint Police and Customs Drugs Task Force leads the enforcement action.

6.4 A region-wide plan of action was launched at a UNDCP meeting in Barbados in May 1996. The EU's substantial contribution to this five-year programme has become known as the EU Caribbean Drugs Initiative — worth some £25 million. The initiative is designed to help Caribbean Governments, including the Overseas Territories, address the problems of drugs trade through improved regional cooperation and greater capacity to tackle all aspects of the control of drugs. We have played a leading role in the initiative and will continue to work to ensure that our Territories are fully involved. Programmes under the initiative, many part-funded by the United Kingdom or with British experts participating in them, include maritime cooperation, judicial training, countering money-laundering, law enforcement training, chemical precursor control and demand reduction.

6.5 We also provide considerable bilateral assistance to the Caribbean for counter-drugs work from which the Caribbean Overseas Territories directly benefit:

- The Royal Navy's West Indies Guard-ship (WIGS), supported by a fleet auxiliary vessel, conducts counter-drugs patrols. Joint operations involving ourselves, the Overseas Territories and the United States have enjoyed recent successes: in February 1998 cocaine worth at least US$ 200 million was seized by the Turks and Caicos Islands marine police.
- There is a network of Drugs Liaison Officers in the Caribbean and neighbouring countries. These officers have conducted many successful operations with the law enforcement authorities in the region. We are considering ways of developing the British Military Advisory and Training team in the Eastern Caribbean into an even more effective counter-drugs asset.
- The Caribbean Customs Law Enforcement Council, which is partly funded by the United Kingdom, operates a regional training and information system.
- We are helping the Association of Caribbean Commissioners of Police to establish a regional secretariat.
- Since 1998 we have had a regional intelligence system (the Overseas Territories Regional Criminal Intelligence System (OTRCIS) gathering and disseminating information among the Caribbean Overseas Territories to assist in the prevention, detection and investigation of major crime, particularly fraud, money-laundering and drugs-related crime. OTRCIS works closely with other regional jurisdictions and with United States agencies (it is based in Miami).
- As part of our contribution towards the counter-narcotics programmes in the British Virgin Islands and the Turks and Caicos Islands, Royal Navy personnel assist with maritime operations, along with RAF flight and maintenance personnel who operate two United Kingdom-donated aircraft for anti-smuggling activities.
- We are funding a training vessel for counter-drugs training by coast guards in the Caribbean. The vessel will be based in Antigua and should be delivered by the middle of 1999.
- In July 1998, Baroness Symons signed a maritime cooperation agreement between the United States, the United Kingdom, the Caribbean Overseas Territories and Bermuda. This provides the framework for law enforcement officers to ship-ride on other parties' vessels. Simplified procedures allow vessels and aircraft engaged in counter-drugs operations to pursue drugs traffickers as they cross territorial and international waters. Implementing legislation is required in the Overseas Territories.

6.6 But we cannot be complacent. There is a need for our Overseas Territories in the Caribbean to take an even more active approach to the promotion of their counter-drugs programmes, to enhance their capability to defend themselves against this pernicious threat and make best use of resources available. We will continue to provide help, but we will also encourage and support the efforts of Overseas Territory Governments to benefit from international assistance offered to them. Effective cooperation with their neighbours is the key to effective action by the Overseas Territories in the battle against the drugs menace in the Caribbean.

Sustainable development — economic and social development

7.1 Many of the Overseas Territories are financially independent of the United Kingdom. But six of them still receive United Kingdom development assistance: Anguilla, the British Virgin Islands, Montserrat and the Turks and Caicos Islands in the Caribbean, Pitcairn and St. Helena. Even in these six Territories, standards of living — as measured by social indicators and by conventional per capita income measures — are relatively high in comparison with other countries receiving development assistance. Most have already surpassed the international development targets in many areas.

7.2 We recognize our responsibility to help them achieve sustainable development, targeting the needs of the poorest and the vulnerable, and the special considerations that apply to the small island Territories — for example their very limited resource base; their dependence on a limited range of economic activity; the fragility of their natural environments; the problems of physical access and isolation which apply in some cases; and the potential exposure to natural disasters, particularly in the Caribbean. We also recognize that we have a particular responsibility to ensure the well-being of sovereign British Territories.

7.3 We have three objectives in providing development assistance to the Overseas Territories:

- To maximize economic growth and self-sufficiency through sensible economic and financial management, leading to graduation from such support where this objective is feasible;
- To ensure in the meantime that basic needs are met, including the provision of essential infrastructure;
- To support the good governance of the Territories, including the proper management of contingent liabilities and the fulfilment of the United Kingdom's international obligations — particularly human rights and the multilateral environment obligations.

7.4 The Government, acting through the Department for International Development, will continue to help the Overseas Territories to achieve sustainable development in ways which contribute effectively towards the elimination of poverty. The principles of social justice which we are pursuing at home should apply in the Overseas Territories too, including the achievement of better opportunities and security for all. We shall therefore support the development of sound policies for economic growth to benefit the whole population, on the basis of efficient and well-regulated markets and access for all people, especially poor and marginalized people, to resources and sustainable livelihoods. We shall also continue to provide support for improving the efficiency, transparency and accountability of Government in the Territories, and for strengthening their planning and policy-making capacities, on the basis of the principles of partnership set out in the November 1997 White Paper on International Development.

7.5 One indicator of sustainable development is economic self-sufficiency. For some of the aid-recipient Overseas Territories this is an attainable objective in the foreseeable future: for others, continued reliance on the United Kingdom for development finance is likely to be required. The Government recognizes its responsibility to provide necessary and appropriate development support to these Territories, up to the stage when they can be said to have achieved economic self-sufficiency. In pursuit of this objective, we will help the Overseas Territories to mobilize their own resources for economic development and investment in infrastructure, and to attract inward investment. The provision of an appropriate legislative, regulatory and fiscal framework will be an important element in this process.

7.6 The importance of this can be seen in the field of aviation safety. Bermuda and the Cayman Islands, who have both achieved United States Federal Aviation Administration Category I status, have shown how high standards in aviation safety regulation can help in the development of a successful tourist industry. But there is a need to improve standards in other Caribbean Overseas Territories to ensure that foreign airlines can continue to operate services to those Territories. The Civil Aviation Authority has agreed on individual action plans with the Territories that should help them reach and maintain minimum International Civil Aviation Organization safety standards and, ultimately, United Kingdom standards.

7.7 Similarly it is important that Overseas Territories with shipping registers should meet best international standards, both for safety reasons and to maintain an important source of revenue.

7.8 The White Paper on International Development explained that "the reasonable assistance needs of the Dependent Territories are a first call on the development programme". The main mechanism for establishing a partnership between the United Kingdom Government and individual Territories to promote sustainable development is the agreed Country Policy Plan. In countries still in receipt of development assistance the Plan is generally linked to a specified United Kingdom commitment on development assistance.

7.9 This assistance, provided by the Department for International Development, takes a number of different forms:

- In the poorer Overseas Territories, help towards economic and social infrastructure — including schools, hospitals, roads, water and power;
- Skilled personnel to fill key administrative or technical posts for which no suitable local candidates are available, and training of their local successors;
- Specialist skills and knowledge to support the development and implementation of policy and legislation, and help the Overseas Territories to develop their own capabilities;
- For the two most economically dependent Overseas Territories — Montserrat and St. Helena — budgetary support to meet the financing gap between recurrent government expenditure and locally generated resources.

Funds are also available from the Foreign and Commonwealth Office to provide support for improved governance in the Overseas Territories. We have made substantial commitments to support those Territories with the greatest need, particularly Montserrat and St. Helena.

7.10 We have committed £75 million to Montserrat for the three-year period 1998/99–2000/01. This is additional to the £59 million spent in the three years since the volcanic crisis started in 1995. Our support finances budgetary aid and the rebuilding of the north of the island where the remaining population live (4,500). We are also providing support for evacuees in the Caribbean region and have financed passages for evacuees to the Caribbean, the United Kingdom and North America. The costs of supporting evacuees once they arrive in Britain are met by the relevant Home Departments. We agreed with the Government of Montserrat in November 1998 on a Sustainable Development Plan setting out the broad policies needed for economic and social recovery of the island. This formed the basis of the joint Country Policy Plan agreed in January 1999, which includes an indicative investment programme for the period to March 2001.

7.11 For St. Helena, our present three-year commitment amounts to £26 million. This finances infrastructure projects, expert personnel, and budgetary aid. We also finance the operating subsidy of the RMS *St. Helena*, at present the sole regular means of physical access to the island (an examination of the economic feasibility of developing an eventual air link is currently under way, alongside our discussions with the United States Government about opening up Wideawake Airfield on Ascension to civilian charter flights). We shall continue to look for other ways of expanding economic activity on St. Helena, in partnership with the private sector.

7.12 The Department for International Development support to the other Overseas Territories is of a lower order of magnitude (£7 million–£8 million a year in total). This is underpinned by a regional Caribbean Overseas Territories allocation which provides support for issues of regional importance and assistance with the efforts of those Territories in regional integration.

7.13 Efforts will be made to diversify sources of assistance to the Overseas Territories. There is a potentially important role for the private sector in stimulating development, and we will work to establish mutually beneficial partnerships between the private and public sectors in the Overseas Territories, with particular emphasis on the tourism and financial service industries.

7.14 The Overseas Territories also benefit from European Community (EC) development assistance under the Overseas Countries and Territories regulation of the Lomé Convention, financed from the European Development Fund. Our Overseas Territories are due to receive just over 19 million European Currency Units (some £13 million) from this source for the present five-year period up to 2000. EC assistance has been used to help finance important infrastructure projects such as roads and water supply schemes in Anguilla and the Turks and Caicos Islands. Discussions are now under way for EC support for a number of projects, including the proposed new wharf development in St. Helena and for infrastructure support in Montserrat and Pitcairn. Funds are also available under the Overseas Countries and Territories regulation for Stabex payments (compensation for price fluctuations in basic export crops) and emergency aid.

The European Investment Bank has agreed recently to finance an important airport development scheme in the British Virgin Islands. The Overseas Territories also benefit from other sources of EC funding (for example emergency aid) and from trade opportunities arising from the preferential access granted in the Overseas Countries and Territories decision.

7.15 We will continue to support efforts to attract additional non-EU donor support to the Overseas Territories. Montserrat, for example, is currently also receiving assistance from the Caribbean Development Bank, the Caribbean Community, the United Nations Development Programme, the United Nations Children's Fund, the United Nations Volunteers and the Organization of Eastern

Caribbean States, and from the Canadian, Jamaican and Japanese bilateral programmes.

7.16 The Overseas Territories need to be able to compete in the global economy. The Department for International Development, the Foreign and Commonwealth Office and other government departments will continue to work closely together on a range of policy issues to help the Overseas Territories adapt to, and take advantage of, the global opportunities and obligations which now confront them.

Sustainable development — the environment

8.1 The natural environment of the Overseas Territories is a rich heritage, but a responsibility too. Henderson Island in the Pitcairn group is the Pacific's best large raised coral atoll. Gibraltar is a key migration route for birds of prey. The British Antarctic Territory is a sensitive barometer for the effect of human actions on the world's climate and atmosphere. The Overseas Territories contain a range of habitats and wildlife of global significance: many more species of animals and plants are found in the Territories, and nowhere else in the world, than are found in Britain. Indeed, they contain at least 10 times as many endemic species as Britain.

8.2 The natural environment also provides a source of economic livelihood for many people in the Overseas Territories. The Cayman Islands, for example, relies heavily on the tourist industry, which in turn depends on the richness of the marine environment. The Falkland Islands and Tristan da Cunha, in particular, rely on sustainable fisheries.

8.3 But these habitats and environments are under pressure. Some are threatened by uncontrolled development of the economic activities they help to sustain; others by introduced species of animals and plants; still others by changing conditions such as rising sea temperature linked to global warming. And these pressures rarely exist in isolation — sea temperature rise, for example, can kill coral reefs which in turn means the loss of marine animals and plants. This disrupts ecosystems and exacerbates damage to resources on which people rely, such as fish stocks — often already under pressure.

8.4 The environment of the Overseas Territories is of global significance. Overseas Territory Governments, civil society groups, the private sector and the United Kingdom Government already work together to protect it. But there is more to be done. The common objective must be to use the environment of the Overseas Territories to provide benefits to people in them, and to conserve our global heritage by managing sustainably all the Overseas Territories' natural resources.

8.5 We support specific aims as part of this overall objective:

- To promote sustainable use and management of the Overseas Territories' natural and physical environment, for the benefit of local people;
- To protect fragile ecosystems such as coral reefs from further degradation and to conserve biodiversity in the Overseas Territories;
- To promote sustainable alternatives to scarce resources or species which are used for economic purposes;
- To enhance participation in and implementation of international agreements by Overseas Territories.

Role of the Overseas Territories

8.6 The role of the Overseas Territory Governments, supported by the United Kingdom Government, is to develop appropriate, applicable and affordable environmental policies, legislation and standards. These are the basis for integrated environmental management systems to enable them to monitor and evaluate progress towards achieving their environmental objectives; and lessons learnt can then be fed back into policy development. Industrial and other developments need effective environmental screening and appraisal so that benefits can be maximized and potential damage minimized early in the project design process. Some hotels, for example, pride themselves on developing safe disposal of waste matter; others create pollution. Tourism can benefit the local economy, but can also deplete and damage local natural resources (and development companies often look for pristine natural areas). Sustainable tourism must be the goal. Some Overseas Territories develop independent environmental impact assessments, ensuring that the public are fully consulted, before making decisions on new developments.

8.7 Policy decisions by Overseas Territory Governments can affect the local, regional and even global environment, so they need to participate in appropriate international arrangements. Our ratification of the Convention on Biological Diversity has already been extended to the British Virgin Islands, the Cayman Islands, Gibraltar and St. Helena (and other Overseas Territories are preparing to join). Most Overseas Territories have joined the Ramsar Convention on Wetlands of International Importance. At present, on the other hand, the United Nations Framework Convention on Climate Change has not been extended to any Overseas

Territory. Overseas Territory Governments may have to introduce laws and set up bodies to enforce the treaty obligations before extension takes place. For example, each Overseas Territory in which the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) applies, requires a national Management Authority.

Britain's role

8.8 We aim to integrate sustainable environmental management into the Government's decision-making. This policy is reflected in many agreements, from the 1992 Rio Declaration on Environment and Development to the communiqué of the European Council in Cardiff in June 1998. But in Overseas Territories as elsewhere, short-term economic pressures can be severe and can undermine the goal of sustainable development. That makes it all the more important for the Government to give guidance and support on how to develop policies and practices to ensure that practice in the Overseas Territories is consistent with the objective of sustainable development.

8.9 We provide financial support for environmental work in the Overseas Territories, through the Department for International Development, the Department of Environment, Transport and the Regions and the Foreign and Commonwealth Office. Since 1996 we have spent some £4.3 million on environment-related development assistance projects in the Overseas Territories; and around £850,000 has been committed under the Darwin Initiative (in support of biodiversity) and contributions to other environmental projects.

Some regional expenditure also benefits Overseas Territories: in October 1998 the United Kingdom arranged (in cooperation with Jamaica) and funded a Marine Biodiversity Workshop in Jamaica for all Caribbean countries and Overseas Territories. At the workshop we announced that we will ratify the Protocol concerning Specially Protected Areas and Wildlife in the Wider Caribbean Region (SPAW Protocol) of the Cartagena Convention; and will extend its ratification, in the first instance, to include the Cayman Islands.

8.10 We ensure that the interests of Overseas Territories are adequately represented and promoted in international environmental fora. The United Kingdom provides advice and encouragement to Overseas Territories to have international environmental agreements extended to them.

8.11 We achieve these aims by:

- Helping to make sure Overseas Territories have the legislation, institutional capacity and mechanisms they need to meet their international obligations;
- Using United Kingdom, regional and local expertise to give advice and improve knowledge of technical and scientific issues. This includes close and open consultation with interested non-governmental organization (NGO) groupings such as the United Kingdom Overseas Territories Conservation Forum;
- Providing financial assistance to the Overseas Territories for integrated environmental management;
- Promoting effective communication, exchange and dissemination of information with United Kingdom Overseas Territories;
- Promoting sustainable development strategies, including commitments to clear environmental and sustainability targets.

Other partners

8.12 The limited resources available to the Governments of most Overseas Territories mean that local communities, the private sector, the scientific community and NGOs have important roles in cooperation with us and the Overseas Territories themselves. These stakeholders have a wealth of experience, specialist knowledge and network of contacts for Overseas Territories and us to draw on. Some businesses and larger NGOs such as the World Wide Fund for Nature help fund environmental projects in Overseas Territories. The private sector also plays an important role by trading and investing in an environmentally responsible way. We are keen to support projects and partnerships whose objective is sustainable development in the Overseas Territories.

Priorities for action

8.13 To reinforce sustainable environmental management in the Overseas Territories, we intend to:

- Assist them to review and update environmental legislation;
- Help build capacity to support and implement integrated environmental management which is consistent with the Overseas Territories' own development planning goals, for example by consultation with local communities, NGOs and the private sector, and by supporting training and public education and awareness programmes;

- Help the Overseas Territories identify additional funding partners for environmental projects, including through donors/private sector/NGO partnerships;
- Take account of their interests in regional and international environmental negotiations and agreements;
- Promote better cooperation and lesson learning between Overseas Territories and small island States which face similar environmental problems.

8.14 We will encourage the Overseas Territories, for their part, to:

- Integrate environmental concerns into all sectors of government work and develop strategies for sustainable development;
- Consider economic incentives and mechanisms to encourage sustainable environmental management, such as cost-recovery mechanisms to offset the cost of regulatory measures;
- Identify environmental priorities and integrate them into their sustainable development strategies: for example biodiversity action plans to monitor changes to species and habitats. These plans should specify individual environmental protection targets, including endangered species and restoration of damaged ecosystems.

8.15 These responsibilities already exist, but the United Kingdom and its Overseas Territories have not always addressed these issues sufficiently consistently or systematically. Examples include damage to coral reefs and the effects of introduced species on native species and habitats. We intend bringing together the responsibilities, common objectives and cooperative approaches of the United Kingdom Government, Overseas Territory Governments, the private sector, NGOs and local communities by drafting and agreeing on an environment charter with the Overseas Territories. The charter will clarify the roles and responsibilities of these stakeholders, set out in a shared vision which also takes account of the wide variety of circumstances and local resources in each Territory. The exact form of the charter and variations between Territories will be determined in consultation with them.

8.16 To help address new problems and opportunities identified through the charter, and to augment support from other donors and partners, we plan to enhance the funding available through the Foreign and Commonwealth Office for activities in support of the charter. At the same time, the Government will provide additional assistance through the Department for International Development to support poorer Overseas Territories in addressing global environmental concerns.

This is in part a reflection that such Overseas Territories, unlike independent developing country States, are not eligible for funding from the Global Environment Facility.

8.17 Failure to put the best arrangements in place now could mean that early in the next millennium much remaining human and natural diversity will be lost. A shared concern for discharge of our environmental responsibilities will be a key element in our new partnership. As a maritime nation Britain was central to the process of creating global markets, spreading industrialization and developing distant Territories, many of them ecologically fragile and vulnerable islands. Some elements of environmental degradation and reduced biodiversity have been a result of that history. Today we have the opportunity to set a new agenda for our stewardship of the rich natural heritage of the Overseas Territories.

A new partnership

9.1 Britain and the Overseas Territories face a new challenge as we enter the new millennium. We both need a new partnership to take our relationship forward — building on the best of what has gone before, but charting a new course for progress and prosperity for the future.

9.2 We believe that the proposals in this White Paper setting out that new relationship — and especially the new moves on rights of citizenship — will command widespread support. They offer a new direction for the relationship between Britain and the Overseas Territories which is modern, forward-looking, fair and effective. We now need to work together to put this new vision into place — to the benefit of the United Kingdom and of the Overseas Territories. Together this new, modernized relationship will meet the challenge of the future: a new partnership for progress and prosperity.